

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

ANNA MENDOZA, individually and on behalf of J.G. a minor, et al.,)	NO. CV-05-327-RHW
)	
Plaintiffs,)	ORDER ADOPTING REPORT AND
)	RECOMMENDATION, APPOINTING
v.)	RUBEN CARRERA AS MONITOR, AND
)	ADOPTING AGREED PROPOSAL FOR
BREWSTER SCHOOL DISTRICT NO. 111, et al.,)	MONITORING CONSENT DECREE
)	
Defendants.)	

Magistrate Judge Imbrogno filed a Report and Recommendation on November 27, 2006, recommending adopting the parties' agreed proposal for monitoring the consent order. As there are no objections, the court **ADOPTS** the Report and Recommendation.

Accordingly, **IT IS HEREBY ORDERED:**

1. The court appoints RUBEN CARRERA ("Monitor"), who will report to the court, counsel for Plaintiffs and counsel for Defendant School District on the compliance of Defendant Brewster School District No. 111 ("Defendant School District") with the provisions of the Consent Order.

2. If, after the Monitor is appointed, the Monitor is incapacitated, resigns or is otherwise unable to perform his duties in whole or in part, the parties will agree upon a new Monitor. If the parties cannot agree, the parties will ask the court to decide

1 the matter after receiving recommendations from counsel for
2 Plaintiffs and Defendant School District.

3 3. The duties of the Monitor will include:

4 a. To keep the court apprised of Defendant School
5 District's progress and the status of compliance of the
6 consent decree on a semi-annual basis;

7 b. When necessary, to facilitate resolution of disputes
8 that arise under the Consent Decree;

9 c. To prepare a compliance report to be submitted to the
10 parties and to the court every six months, or more
11 frequently at the Monitor's discretion or as ordered by
12 the court; and

13 d. To perform such other duties as are assigned by the
14 court.

15 4. Defendant School District will ensure that the Monitor
16 will have access to information sufficient, in the Monitor's
17 judgment, for him to perform his duties. Defendant School District
18 will promptly respond to requests for documents or information from
19 the Monitor. The Monitor will be free to communicate with any and
20 all persons whom he decides should be consulted. As needed to
21 perform his job, and in the Monitor's sole discretion, the Monitor
22 may keep the identity of his sources confidential. Defendant School
23 District will make all reasonable efforts to ensure that the Monitor
24 will have such access as the Monitor desires. The Monitor will be
25 required to safeguard all information that is made confidential by
26 federal or state law.

27 5. The Monitor may communicate ex parte with counsel for
28

1 Plaintiffs, Plaintiffs, counsel for Defendant School District and
2 administrators of Defendant School District.

3 6. The Monitor may visit Defendant School District and speak
4 freely with school personnel and students. The Monitor may observe
5 meetings involving the Office of Minority Affairs, the Equity and
6 Resolution Council, the Ethnic Minority Parent/Community Council and
7 other boards, committees, task forces or the like which may be
8 formed to assist in ensuring a racially friendly learning
9 environment. The Monitor may observe racial sensitivity and
10 anti-racism training provided to Defendant School District's
11 personnel.

12 7. Defendant School District will enter into a Memorandum of
13 Agreement ("MOA") with the Monitor for a two-year term to begin
14 within a reasonable time after the date the court appoints the
15 Monitor. The MOA shall incorporate the Monitor's responsibilities
16 set forth in the Consent Order and this Order and establish a
17 billing and payment mechanism for the Monitor's fees and expenses.
18 The Monitor will be paid fees, plus reasonable expenses, including
19 administrative support of his own choosing. If a ceiling is
20 imposed, and the Monitor is asked to perform duties not explicitly
21 required under the terms of the Consent Order and this Order, or the
22 Monitor must expend more time or resources on activities required
23 under the Consent Order and this Order than contemplated by the
24 parties or the Monitor, then the Monitor may request additional
25 funds and such request shall not be unreasonably denied.

26 8. On a monthly basis, the Monitor shall submit to Defendant
27 School District an account of his activities and an invoice for the
28

1 reasonable fees and expenses incurred in the performance of his
2 duties under the Consent Order and this Order. Defendant School
3 District shall review the account of activities and invoice for fees
4 and expenses and shall have 20 days to file any objections to the
5 proposed invoice. Absent any objections, Defendant School District
6 shall pay such reasonable fees and expenses within 45 days of
7 receipt of the invoice or as may be ordered by the court.

8 9. The Monitor's term shall end after a two-year period.
9 Upon good cause shown, any person affected by the Consent Order or
10 this Order may seek a reduction or extension of the Monitor's term.

11 10. When the Monitor visits Defendant School District,
12 Defendant School District shall provide the Monitor with reasonable
13 office space, including a computer and access to the internet and e
14 mail.

15 11. The Monitor may be dismissed and replaced (a) upon
16 agreement of the parties, subject to the court's approval, or (b) by
17 the court upon petition of any party upon good cause shown.

18 **TERMINATION OF CONSENT ORDER**

19 12. Upon completion of the Monitor's duties at the end of two
20 years, or at any other time ordered by the court, the provisions of
21 the Consent Order shall cease to be in effect and the duties of
22 Defendant School District imposed by the Consent Order shall
23 terminate.

24 ///

25 ///

26 ///

27 ///

1 **IT IS SO ORDERED.** The District Court Executive is directed to
2 enter this Order and forward copies to counsel.

3 DATED this 27th day of December, 2006.

4 *S/ Robert H. Whaley*

5 ROBERT H. WHALEY
6 Chief United States District Judge

7
8 Q:\CIVIL\2005\mendoza\adoptrr.wpd